



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

# DRAFT

Date Amended:	<b>Enrolled</b>	Bill No:	<b>SB 1880</b>
Tax:	<b>Property</b>	Author:	<b>Committee on Revenue &amp; Taxation</b>
Board Position:	<b>Support, §24002.5, §218.1, and §5180 Board-sponsored  No position – other provisions</b>	Related Bills:	<b>SB 1748 (Ducheny) SB 1877 (SR&amp;T) SB 1879 (SR&amp;T)</b>

## BILL SUMMARY

This bill would:

- Clarify the commencement of the 30-day period in which a person elected or appointed to the office of assessor must obtain a temporary appraiser's certificate from the Board of Equalization (Board). *Government Code §24002.5*
- Eliminate the requirement for taxpayers claiming the exemption for works of art to personally appear before the assessor. *Revenue and Taxation Code §217*
- Eliminate the requirement for taxpayers claiming the exemption for aircraft displayed in an aerospace museum to sign the claim form before a member of the assessors' office or a notary public. *Revenue and Taxation Code §217.1*
- Eliminate the requirement for taxpayers claiming the historical aircraft exemption to sign the annual claim form before a notary public or a member of the assessor's office. *Revenue and Taxation Code §220.5*
- Delete a requirement that escape assessments for prior years be noted on the assessment roll and delete related obsolete sections of law. *Revenue and Taxation Code §533*
- List additional information required to be provided on the aircraft statement. *Revenue and Taxation Code §5365*
- Repeal obsolete sections of law. *Revenue and Taxation Code §218.1 and §5180*

## ANALYSIS

### Newly Elected Assessors- Temporary Certificate

*Government Code Section 24002.5*

### Current Law

Section 670 of the Revenue and Taxation Code provides that any person performing the duties of an appraiser for property tax purposes as an employee of either the state or any city, county, or city and county, must hold a valid appraiser's or advanced appraiser's certificate issued by the State Board of Equalization (Board). The section provides generally that certificates may be issued only to applicants who have (1) passed an

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examination provided by the Board and (2) demonstrated competence to perform the work of an appraiser. These provisions became applicable to elected or appointed county assessors first assuming office on or after January 1, 1997.

Section 673 of the Revenue and Taxation Code provides that new employees and newly elected or appointed assessors may obtain a *temporary* appraiser's certificate for a period of up to one year before obtaining their permanent appraiser's certificate.

Section 24002.5 of the Government Code also requires that county assessors elected or appointed after January 1, 1997 hold a valid appraiser's certificate issued by the Board and similarly allows an assessor who is newly elected or appointed to exercise the powers and duties of the office if he or she acquires a temporary appraiser's certificate "within 30 days of election or appointment."

### **Proposed Law**

This bill would amend Section 24002.5 of the Government Code to clarify the commencement of the 30-day period within which a person elected or appointed to the office of assessor must obtain a temporary appraiser's certificate from the Board. This bill would specify that the time period to acquire the appraiser's certificate begins "no later than 30 days after taking office" rather than "within 30 days of election or appointment."

### **Comments**

1. **Sponsor and Purpose.** This Board of Equalization is sponsoring this provision to state more precisely the 30-day period within which a newly elected or appointed assessor must obtain a temporary appraiser's certificate from the Board.
2. **Amendments.** The April 1 amendment added the provisions related to temporary appraiser's certificates.
3. **The time period currently specified in statute is not technically workable.** For instance, under the existing statute, for a person who is elected at either the June or November election, the 30-day period will have passed before that person officially takes office in January.
4. **Related Regulation has been updated.** The Board recently updated Property Tax Rule 282 to clarify that the 30-day period begins once the person is officially in office. This bill would update the statute.

### **Exemption Claims**

*Revenue and Taxation Code §§217, 217.1, and 220.5*

### **Current Law**

**Works of Art.** Revenue and Taxation Code Section 217 provides a property tax exemption for specified works of art displayed in publicly owned museums or galleries and nonprofit museums. The law requires that when filing a claim and affidavit for the exemption, the claimant must sign and swear to the accuracy of the contents of the affidavit before the assessor or his or her designee.

**Aerospace Museums.** Revenue and Taxation Code Section 217.5 provides a property tax exemption for aircraft displayed in a publicly owned or non-profit aerospace museum.

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The law requires that when filing a claim and affidavit for the exemption, the claimant must sign and swear to the accuracy of the contents of the affidavit before either a notary public or the assessor or his or her designee, at the claimant's option.

**Historical Aircraft.** Revenue and Taxation Code Section 220.5 provides a property tax exemption for aircraft of historical significance. A one-time fee of \$35 is imposed with the initial application for exemption. Thereafter, Section 255 requires that persons re-file for the exemption each year by February 15. The law requires that when filing a claim and affidavit for the exemption, the claimant must sign and swear to the accuracy of the contents of the affidavit before either a notary public or the assessor or his or her designee, at the claimant's option.

All other laws that require an exemption claim to be filed only require that the claim be signed under the penalty of perjury.

### **Proposed Law**

This measure would amend Sections 217, 217.1 and 220.5 of the Revenue and Taxation Code to delete the requirement that a claimant sign the form in front of a member of the assessor's office staff or a notary public and instead require only that the claimant sign the affidavit under penalty of perjury.

This amendment would conform the exemption claiming process in Sections 217, 217.1 and 220.5 as it relates to signatures to all other exemptions that require a claim to be submitted and signed.

### **COMMENTS**

1. **Sponsor and Purpose.** The Board of Equalization is sponsoring this measure to make the annual filing process for claiming the works of art, aerospace museum, and historical aircraft exemption less burdensome and costly.
2. **Amendments.** The June 10 amendments added the provisions relating to the exemption filing requirements. The provisions related to the historical aircraft exemption were previously contained in SB 1877 (Senate Revenue and Taxation Committee). The provisions for works of art and aerospace museum are new amendments which were subsequently discovered after the introduction of SB 1877 and places similar burdens on taxpayers.
3. **The annual filing requirement for these exemptions require that the property owner sign the affidavit before a member of the assessor's staff.** All other exemptions only require that the claimant sign the affidavit under penalty of perjury.
4. **The signing requirement has no constructive purpose and is unduly onerous.** To comply, taxpayers must either drive to their local assessor's office during business hours or, for those that provide an option to sign before a notary public, pay a fee to have the document notarized.
5. **Some counties do not require their taxpayers to meet this requirement given these burdens.** In practice, many county assessors' offices do not require that taxpayers sign the claim form before a notary public or a member of the assessor's staff due to the unnecessary burden and inconvenience it places on their taxpayers.

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However, when it is discovered in a Board audit of a county assessor's office that claims have been accepted without following this statutory requirement, the Board recommends that the county discontinue the practice given the legal requirement. Most counties subsequently comply. However, the Board agrees that the law is unduly onerous and ought to be modified.

6. **Existing claim forms prescribed by the Board currently specify that the affidavit is to be signed under the penalty of perjury.** Thus, this bill codifies the language contained in affidavits currently signed by claimants.

### **Escape Assessments**

#### *Revenue and Taxation Code Section 533*

#### **Current Law**

Revenue and Taxation Code Section 533, in part, requires that escape assessments be noted on the roll for the current assessment year. If the escape assessment is for a prior year, then a specific notation is additionally required stating the year for which the escape assessment applies and the section of code under which the escape is being made. The assessor may note the escape assessment on either the hard copy of the roll or the electronic version of the roll.

The assessment roll generally lists the assessed value of all property located in the county for a particular fiscal year. Revenue and Taxation Code Section 1602 requires that the assessment roll, or a copy thereof, be made available for inspection by all interested parties during regular office hours. Sections 109.5 and 109.6 provide that the data included in the assessment roll may be electronically maintained so that no physical document need be prepared. But the data must be stored in a manner that can be made readily available to the public in an understandable form.

#### **Proposed Law**

This bill would amend Revenue and Taxation Code Section 533 to delete the requirement that escape assessments be noted on the assessment roll. It would also delete obsolete date specific language.

#### **Background**

**Related Bills.** SB 1059 (SR&T, Stats. 2003, Ch. 604) amended Section 533 to allow escape assessments to be noted on either a hard copy of the roll or an electronic copy. The reason for this amendment was that most counties have electronic assessment rolls, and it was not practical to make a specific notation on the assessment roll itself, which is basically a requirement intended for a physical paper format.

#### **Comments**

1. **Sponsor and Purpose.** The California Assessors' Association is sponsoring this provision because the amendment to Section 533 in 2003 did not benefit all counties. Some counties can not modify their electronically prepared assessment roll to list a specific phrase.
2. **Amendments.** The June 10 amendment added these provisions which were previously contained in SB 1877 (Senate Revenue and Taxation Committee).

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3. **Suggested Amendments.** Interested parties should be able to obtain information regarding escape assessment in some manner that is available to the public. Rather than eliminate both (1) the requirement to list escape assessments on the roll and (2) make a specific notation about that escape assessment, it is instead recommended that the law only require that assessors maintain this information, in some manner, that would be accessible to the public. Such an amendment would give assessors flexibility on how best to comply with this requirement within the structure of their systems and procedures. Further, because Section 534 currently references escape assessments entered on the assessment roll pursuant to Section 533, additional amendments would be needed to this section if the language related to entering escape assessments on the assessment roll is deleted.

### **Aircraft Assessments**

#### *Revenue and Taxation Code Section 5365*

#### **Current Law**

General aircraft is annually reassessed each year at its current fair market value on the lien date. Revenue and Taxation Code Section 5365 requires aircraft owners to file an aircraft property statement upon request by the assessor. The statute specifies the information shall include "the make, model and year of manufacture of the aircraft." Assessors' Handbook Section 577 "Assessment of General Aircraft" provides detailed guidance on the taxation of aircraft. <http://www.boe.ca.gov/proptaxes/ahcont.htm>

#### **Proposed Law**

This bill would amend Revenue and Taxation Code Section 5365 to list additional information that taxpayers would be required to provide on the aircraft statement.

#### **Comments**

1. **Sponsor and Purpose.** Board Member John Chiang is sponsoring this measure to ensure assessors can obtain information necessary to use Board-recommended aircraft valuation guides to value aircraft in the most cost-effective manner.
2. **Amendments.** The June 10 amendment added these provisions which were previously contained in SB 1877 (Senate Revenue and Taxation Committee).
3. **Specific types of information about aircraft are needed to properly use commercially available aircraft value guides.** In valuing aircraft, the Board, pursuant to Section 5364, approves and recommends the use of certain commercially available aircraft valuation guides. These guides ensure uniformity in the valuation of aircraft in California for property tax purposes. However, to use the guides correctly, one must gather more data than the code currently requires. For instance, the total airframe hours, the total hours since last major overhaul, the total hours for each engine, and the engine make, model number, year of manufacture and horsepower are necessary to properly use these aircraft value guides. This bill would allow assessors to collect the necessary data from aircraft owners.
4. **While the assessor can request the required information, there is no legal obligation for the taxpayer to provide it.** If the aircraft owner does not provide the information on the property statement, then assessor would need to physically inspect the aircraft. This is administratively costly and not a productive use of resources.

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Section 5367 provides a 10% penalty for a taxpayer's failure to report the required data under Section 5365 as an incentive to provide the necessary information. However, the penalty only applies to information specifically listed under Section 5365.

### **Obsolete Code Sections**

*Revenue and Taxation Code Sections 218.1 and 5180*

#### **Current Law**

Section 218.1 of the Revenue and Taxation Code makes special provisions for claiming the homeowners' exemption on property damaged in the riots of April and May of 1992.

Section 5180 of the Revenue and Taxation Code makes special provisions for local counties to create a "Validation Action Defense Trust Fund" to retain private counsel to review settlement agreements reached with state assesseees for the 1991 assessment year and prior assessment years.

#### **Proposed Law**

This bill would repeal Sections 218.1 and 5180. These provisions are date specific and subsequently are obsolete.

#### **Comment**

**Purpose.** To delete two obsolete sections of the Property Taxes Law for housekeeping reasons.

#### **COST ESTIMATE**

With respect to property taxes, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes as well as updating various publications and the property statement. These costs are estimated to be under \$10,000.

#### **REVENUE ESTIMATE**

This bill has no revenue impact.

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